Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No. _____

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1993

THE BOARD OF GOVERNORS OF REGISTERED DENTISTS OF THE STATE OF OKLAHOMA,

Petitioner,

v.

LOIS JACOBS, D.D.S.,

Respondent.

Appendix to Petition For A Writ Of Certiorari To The SUPREME COURT OF THE STATE OF OKLAHOMA

SUSAN B. LOVING
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RABINDRANATH RAMANA*
ASSISTANT ATTORNEY GENERAL
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(405) 521-4274

*Counsel of Record

February, 1994

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*Counsel of Record

February, 1994

EXHIBIT A

IN THE SUPREME COURT
OF THE STATE OF OKLAHOMA

Tuesday, November 23, 1993

THE CLERK IS DIRECTED TO ISSUE THE FOLLOWING ORDERS:

79,315 Lois Jacobs, D.D.S. v. The Board of Governors of Registered Dentists of the State of Oklahoma.

Petition for certiorari denied.

CONCUR: Hodges, C.J., Hargrave, Wilson, Kauger Summers, J.J.

DISSENT: Lavender, V.C.J., Simms, Opala, Watt, J.J.

APPENDIX A-2

EXHIBIT B

IN THE COURT OF APPEALS, DIVISION 4
STATE OF OKLAHOMA

LOIS JACOBS, D.D.S., Appellee,	)	
v.	)	No. 79,315
THE BOARD OF GOVERNORS OF REGISTERED DENTISTS OF THE STATE OF OKLAHOMA, Appellant.	)	NOT FOR PUBLICATION

Appeal from the District Court of Tulsa County, Oklahoma (D.C. No. CJ-91-5201)

The Honorable Donald C. Lane, Trial Judge.

Susan B. Loving
Attorney General of Oklahoma
Rabindranath Ramana
Assistant Attorney General
Oklahoma City, Oklahoma - For Appellant

Sarah Sheperd Brandon
Tulsa, Oklahoma

James E. Frasier
J. Townley Price
Tulsa, Oklahoma - For Appellee

James C. Thomas
Tulsa, Oklahoma - Amicus Curiae American Society of Dentist Anesthesiologists

APPENDIX A-3

MEMORANDUM OPINION

TAYLOR, P.J.

The Board of Governors of Registered Dentists ("Board of Governors" or "Board") seeks review of an order of the trial court that reversed the Board's finding that Dr. Jacobs was guilty of unprofessional conduct by holding herself out as a specialist in dental anesthesiology.

The uncontroverted facts are that Dr. Jacobs has been a licensed dentist in Oklahoma since 1980. After graduating from dental college, Dr. Jacobs successfully completed a two-year medical residency in anesthesia at the University of Iowa Hospitals and Clinics. Dr. Jacobs is the only dentist in Oklahoma having completed a medical residency in anesthesia. In addition, she is a Fellow in General Anesthesia of the American Dental Society of

Anesthesiology (ADSA). The Board of Governors recognizes that a Fellow in General Anesthesia of the ADSA has special training and experience in the use of anesthesia in dentistry.

In 1980, Dr. Jacobs came to Oklahoma to be Director of Anesthesia at Bass Memorial Hospital in Enid. The following year she moved to Tulsa to join the faculty of Oral Roberts University, where she had received appointments in the College of Dentistry and College of Medicine. When the College of Dentistry closed in 1986, Dr. Jacobs entered private practice in Tulsa. Her dental practice consists primarily of going to one dentist's office where she administers anesthesia and monitors the patient while the other dentist performs the necessary dental procedures.

APPENDIX A-5

When Dr. Jacobs entered private practice in 1986, she placed an advertisement in the Yellow Pages of the telephone directory under the heading, "General Dentists." At the bottom of the ad the following statement appears: "Advanced University & Hospital Trained Specialist in Anesthesiology." This ad was renewed each year.

In 1991, the Board of Governors received a complaint from a Tulsa dentist. Based on this complaint, the Board issued a formal Statement of Complaint and Notice of Hearing that was served on Dr. Jacobs.

At the conclusion of the hearing, the Board found that neither the Oklahoma Dental Act nor the American Dental Association recognized a specialty within dentistry in the field of anesthesiology. The Board further found that by holding herself out as a specialist in anesthesiology without a

special license Dr. Jacobs violated 59 O.S.1991, § 328.32(g) and (i) and was guilty of dishonorable and unprofessional conduct. Dr. Jacobs was formally reprimanded and placed on two years probation.

Dr. Jacobs filed a timely appeal to the District Court of Tulsa County pursuant to 59 O.S.1991, § 328.43. After receiving the parties' briefs and hearing oral arguments, the trial court reversed the Board's Order, expunged the record and fully restored Dr. Jacobs' rights. The trial court also found that portion of Dr. Jacobs' advertisement stating that she was an "Advanced University & Hospital Trained Specialist In Anesthesiology" constituted commercial speech protected by the First Amendment to the United States Constitution and the Constitution of the State of Oklahoma.

It is from this order the Board appeals arguing two propositions of error: First, that Dr. Jacobs' advertisement is not constitutionally protected speech; and second, that the Board's decision is supported by substantial evidence and should be affirmed.

The Board's reliance on Parmley v. Missouri Dental Board, 719 S.W.2d 745 (Mo. 1986), is misplaced. Parmley maintained that the Missouri statute that denied him the right to advertise a specialty in pedodontics, without a license in that specialty, placed an unconstitutional burden on his First Amendment rights. The court held that the statute advanced important state and public interests in maintaining a chosen level of competence of health professionals and that Parlmey's First Amendment rights were not burdened to a

significant extent by the regulatory framework.

In the case at hand, Dr. Jacobs' advertisement did not state she was a specialist in one of the seven specialties recognized by the Oklahoma Dental Act, but that she was specially qualified in a branch of dentistry for which there is no recognized specialty.

In Abramson v. Gonzalez, 949 F.2d 1567 (11th Cir. 1992), the court held that as long as commercial speech describes lawful activity, is truthful, and is not fraudulent or misleading it is entitled to the protections of the First Amendment. There is nothing in the record before us to indicate that Dr. Jacobs' inclusion of the language that she was specially qualified as a dental anesthesiologist was false, misleading or deceptive.

To regulate commercial speech which is not misleading a state must demonstrate a substantial interest and the regulation must be narrowly drawn to meet that interest. In re R.M.J., 455 U.S. 191 (1982). Here, the Board made no finding that any potential patient or person was actually misled or deceived by Dr. Jacobs' advertisement. Rather, it ruled as a matter of law that Dr. Jacobs' claim of being a university - and hospital - trained specialist was misleading absent an official state certification in dental anesthesiology.

Information regarding certification and specialties facilitates the consumer's access to dental services. The preferred remedy is more disclosure, not less. Bates v. State Bar of Arizona, 433 U.S. 350 (1977).

We find the disclosure of information, such as that on Dr. Jacobs' advertisement in

the Yellow Pages of the telephone directory, is protected by the First amendment. Because of our disposition of this issue, we find it unnecessary to address the Board's remaining proposition of error.

Accordingly, the order of the District Court reversing the findings and order of the Board of Governors is AFFIRMED. BRIGHTMIRE, J., and STUBBLEFIELD, J., concur.

August 10, 1993.

APPENDIX A-11

EXHIBIT C

IN THE COURT OF APPEALS, DIVISION 4
STATE OF OKLAHOMA

THE CLERK IS DIRECTED TO NOTIFY ALL PARTIES OF THE FOLLOWING ORDER(S):

79,315 LOIS JACOBS, D.D.S., Appellee, v. THE BOARD OF GOVERNORS OF REGISTERED DENTISTS OF THE STATE OF OKLAHOMA, Appellant.

Appellant's Petition for Rehearing is denied.

Done in Conference this 10th day of September, 1993.

Joe C. Taylor, Presiding Judge

APPENDIX A-12

EXHIBIT D

IN THE DISTRICT COURT IN AND FOR
TULSA COUNTY, STATE OF OKLAHOMA

LOIS JACOBS, D.D.S.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. CJ-91-5201
	)	
THE BOARD OF GOVERNORS OF REGISTERED DENTISTS OF THE STATE OF OKLAHOMA,	)	
	)	
Respondent.	)	

ORDER

NOW on this 25th day of February, 1992, this cause came on to be heard before Judge Donald C. Lane, Judge of the District Court in and for Tulsa County, Oklahoma. The Petitioner appeared in person and by her attorneys, James E. Frasier, J. Townley Price, and Sarah S. Brandon. The Board of Governors of Registered Dentists of the State of Oklahoma appeared by its attorneys, Special Prosecutor Stephen R. Clark and

Assistant Attorney General of Oklahoma, Rabindranath Ramana.

Petitioner Lois Jacobs, D.D.S., appeals from a Final Order and Decision of The Board of Governors of Registered Dentists of the State of Oklahoma (Board) issued on November 9, 1991, Case No. 91-017, wherein she was found to be in violated of Section 328.32(g) and Section 328.32(i) of The State Dental Act, 59 O.S.§§ 328.1-328.52, by her placement of an advertisement in the Yellow Pages of the Tulsa Southwestern Bell Telephone Directory.

The Court, having carefully considered the record in this case, and after hearing oral arguments, finds that Petitioner's advertisement stating that she is an advanced university and hospital trained specialist in anesthesiology and a Dentist Anesthesiologist is commercial speech protected by the First

Amendment to the U.S. Constitution and the Constitution of the State of Oklahoma. The Court further finds that only this portion of Petitioner's advertisement is before this Court.

IT IS THEREFORE ORDERED that the judgment and verdict rendered by the Board is hereby reversed, set aside, and held for naught.

THE COURT FURTHER ORDERS that Petitioner be restored to all rights lost by the rendition of the Decision and Order of the Board.

THE COURT FURTHER ORDERS the Board to expunge the private and public files maintained on Petitioner of any and all adverse comments placed there by the Board as a result of the November Decision and Order of the Board. Specifically, the Board is

Ordered to remove the letter of reprimand issued against Petitioner.

THE COURT FURTHER ORDERS that Petitioner's License to practice Dentistry in the State of Oklahoma be fully restored.

THE COURT FURTHER ORDERS that the Board immediately do all things necessary to void and expunge the comments and adverse action reported against Petitioner to the National Practitioners Data Bank.

THE COURT FURTHER FINDS that this is not an appropriate case for awarding attorney fees and costs to the prevailing party pursuant to 12 O.S. § 941.

IT IS SO ORDERED THIS 20th **day of** March, **1992.**

DONALD C. LANE, JUDGE OF THE DISTRICT COURT, 14TH JUDICIAL DISTRICT

Approved as to content and form:

Rabindranath Ramana,
Assistant Attorney General
State of Oklahoma
Attorney for Board of
Governors of Registered Dentists

Stephen R. Clark
Attorney and Special Prosecutor
For Board of Governors of
Registered Dentists

James E. Frasier
J. Townley Price
Sarah S. Brandon
Attorneys for Petitioner

APPENDIX A-17

EXHIBIT E

BEFORE THE BOARD OF GOVERNORS
OF REGISTERED DENTISTS
STATE OF OKLAHOMA

IN THE MATTER OF THE)
COMPLAINT AGAINST:) Case No. 91-017
)
LOIS IONE JACOBS,)
D.D.S.)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This matter came on for hearing on November 9, 1991 before the Oklahoma Board of Governors of Registered Dentists (the Dental Board) upon the complaint against Lois Ione Jacobs, D.D.S. (Dr. Jacobs). Dr. William E. Goodman, D.D.S., President of the Board, presided. Board members Jackson D. Haraway, D.D.S.; Terry D. Grubbs, D.D.S.; James E. Farley, D.D.S.; Bonnie Flannigan, R.D.H.; J.L. Kruska, D.D.S.; James D. Limestall, D.D.S.; Fred R. Lucas, Jr., D.D.S.; and Phyllis N. Turlington were present to hear

the case. The Board's investigatory officer, Joseph J. Massad, D.D.S., was also present but did not participate in the Board's decision. The Dental Board's case was presented by Stephen R. Clark. The Respondent Dr. Jacobs appeared in person and was represented by Mr. James E. Frasier, Mr. Townley Price, and Ms. Sarah Brandon. In conducting the hearing, the Board was advised by Assistant Attorney General Rob Ramana.

Having considered the allegations of the complaint and the evidence presented, the Dental Board issues the following Findings of Fact, Conclusions of Law, and Order:

Findings of Fact

1. The Dental Board has issued to the Respondent, Dr. Jacobs, a license to practice dentistry, No. 4184.

2. Pursuant to Rule IV of its Rules and Regulations for Dental Assistants, Dental

Nurses, Dental Hygienists, and Dentists, the Dental Board has issued to Dr. Jacobs Permit No. 5 to administer conscious sedation. The Dental Board has also issued to Dr. Jacobs Permit No. 45 to administer general anesthesia. Neither Dr. Jacobs' license to practice dentistry nor her permits to administer conscious sedation and general anesthesia authorize her to represent herself as a specialist in anesthesiology.

3. On May 27, 1991, the Board received a complaint against Dr. Jacobs from a Dr. K.D. Parks. The complaint alleged, inter alia, that Dr. Jacobs had engaged in false and misleading advertising by placing a certain advertisement in the Southwestern Bell Yellow Pages for Greater Tulsa. Subsequently, the Board investigated the complaint against Dr. Jacobs through its regular investigatory procedures.

4. In September, 1991, the Board issued a formal complaint against Dr. Jacobs alleging several violations of the Oklahoma Dental Act, 59 O.S.Supp.1990, § 328.1, et seq. The matter was set for a hearing before the Dental Board.

5. At the November 9, 1991 hearing on the formal complaint against Dr. Jacobs, the following witnesses testified in support of the allegations in the Board complaint: Dr. Jacobs; Tom Boerschinger, the Assistant General Counsel for the American Dental Association; and Ms. Linda Campbell, the Board's Executive Director. In response to the allegations of the complaint, Dr. Jacobs testified in her own behalf. She also called the following witnesses: Jonathan D. Chancellor, M.D., Shirley Blades; James Snyder, D.D.S.; Cindy Jenswold, C.R.N.A.; and Lee Clark Johns.

6. Dr. Jacobs placed an advertisement in the Southwestern Bell Yellow Pages for Greater Tulsa, Oklahoma for the year 1990-91 that read as follows:

DENTIST
ANESTHESIOLOGIST

Where the dental chair almost becomes an easy chair. Available at YOUR OWN Dentist office, Sedation For Root Canals, Gum Treatment, Implants, Extractions, General Dentistry. Monitoring Of High Risk Patients Heart Disease - High Blood Pressure Cerebral Palsy Advanced University & Hospital Trained Specialist In Anesthesiology

Call----------835-6822

7. Dr. Jacobs placed the same advertisement in the 1991-92 Southwestern Bell Yellow Pages for Greater Tulsa, Oklahoma.

8. At the November 9, 1991 hearing, Dr. Jacobs testified as to her training and qualifications. Dr. Jacobs stated she

received a B.S. Degree in 1974 from the University of Iowa College of Pharmacy and a D.D.S. Degree from the University of Iowa College of Dentistry in 1978. Dr. Jacobs completed a two-year medical residency in the Department of Anesthesia at the University of Iowa Hospitals and Clinics in Iowa City, Iowa in 1980. Dr. Jacobs is a member of the American Society of Dentist Anesthesiologists and a Fellow of the American Dental Society of Anesthesiology. Dr. Jacobs acknowledged that, in none of this training and in none of these memberships, was she ever certified as a specialist in anesthesiology.

9. At the November 9, 1991 hearing, Mr. Tom Boerschinger, the Assistant General Counsel for the American Dental Association, testified that the American Dental Association's Counsel on Dental Education does not recognize a specialty within

dentistry in the field of anesthesiology. Mr. Boerschinger's testimony was confirmed by a letter from Judith A. Nix (the Assistant Director of Advanced Education for the American Dental Association's Counsel on Dental Education) to Linda Campbell, the Dental Board's Executive Director. Ms. Nix's letter states, "Dental anesthesiology is not a recognized dental specialty." Mr. Boerschinger's testimony and Ms. Nix's letter were not rebutted by Dr. Jacobs and the Board accepts this testimony and documentary evidence.

10. Mr. Boerschinger further testified that neither the American Society of Dentist Anesthesiologists nor the American Dental Society of Anesthesiology have petitioned the American Dental Association for recognition of dentist anesthesiology as a specialty. This testimony was not rebutted by Dr.

Jacobs; the Board finds it to be credible and accepts it.

11. At the November 9, 1991 hearing, Ms. Linda Campbell testified that Dr. Jacobs has never requested the Dental Board to issue her a specialty license. This testimony was not rebutted by Dr. Jacobs, and the Board finds it to be credible and accepts it.

12. At the November 9, 1991 hearing, the Board also considered testimony from several witnesses called by Dr. Jacobs. Dr. Chancellor testified as to the sufficiency of Dr. Jacobs' training. Ms. Blades testified as to the need for a specialty in anesthesia. Dr. Snyder testified as to his role in developing a model examination for potential use in specialty licensure in dental anesthesiology. Dr. Snyder further testified as to the use and importance of anesthesiology in the field of dentistry

generally. Ms. Jenswold testified as to confusion surrounding the term anesthesiologist and as to Dr. Jacobs' qualifications. Ms. Johns, a writing consultant with a Bachelor's and Master's Degree in English, testified that in her opinion, Dr. Jacobs yellow pages advertisement is not misleading because the information set forth in it is "verifiable". As set forth below, the Board finds the testimony of Drs. Chancellor and Snyder and Ms. Blades and Ms. Jenswold irrelevant to the issues in this case. The Board finds the testimony of Ms. Johns unpersuasive.

Conclusions of Law

1. 59 O.S.Supp.1990, § 328.15 directs the Dental Board to enforce the Oklahoma Dental Act. In light of § 328.15, the Board has jurisdiction over this matter.

2. Any Finding of Fact which is properly a Conclusion of Law is incorporated by reference and vice versa.

3. 59 O.S.Supp. 1990, § 328.32 authorizes the Board to issue reprimands, suspensions, and revocations against a licensed dentist who, inter alia: (1) is "guilty of dishonorable or unprofessional conduct" [328.32(g)]; (2) "holds himself out as especially qualified or limiting his practice to a branch of dentistry without a special license therefore" [328.32(i)].

4. 59 O.S.Supp.1990, § 328.22 provides:

> No person qualified to practice dentistry, as defined herein, shall announce and/or hold himself out to the public as limiting his practice to or as being especially qualified in any branch of dentistry without first having obtained a license therefore from the Board of Governors as hereinafter provided. The Board of Governors will, at its discretion, issue licenses in only those specialties as approved by the Council on Dental Education of the American Dental Association.

5. Rule VI of the Dental Board's Rules on Examination and Licensure states that only the following specialties are recognized by the Board: Oral and Maxillofacial Surgery; Orthodontics; Pedodontics, Periodontics; Prosthodontics; Endodontics; and Oral Pathology.

6. Rule IV of the Board's Rules for Dentists and Dental Hygienists authorizes the Board to grant permits to dentists to administer conscious sedation and general anesthesia. However, under the provisions of Rule IV, permits to administer conscious

sedation and general anesthesia may be issued only to dentists who meet certain educational requirements and who maintain properly equipped facilities, as determined by the Board. As a result, under Rule IV, conscious sedation and general anesthesia may be administered only at specific dental offices that have been approved by the Board for the administration of such procedures.

7. By placing an advertisement in the 1990-91 Southwestern Bell Yellow Pages for Greater Tulsa in which she described herself as a "dentist anesthesiologist" and as an "Advanced University and Hospital Trained Specialist in Anesthesiology", the Respondent Dr. Jacobs violated 59 O.S.Supp.1990, § 328.32(i).

8. By placing the 1990-91 advertisement in the Southwestern Bell Yellow Pages for Greater Tulsa and describing herself as

a "dentist anesthesiologist" and an "Advanced University and Hospital Trained Specialist in Anesthesiology", the Respondent Dr. Jacobs also violated 59 O.S. § 328.32(g) by committing dishonorable and unprofessional conduct.

9. By placing the subject advertisement in the 1990-91 Yellow Pages for Greater Tulsa and stating in that advertisement that her services involving the administration of anesthesia are "available at your own dentist's office" when these services of Dr. Jacobs are, in fact, only available at particular dentist's offices that have been approved by the Board to administer conscious sedation and general anesthesia, the Defendant Dr. Jacobs violated 59 O.S.Supp. 1990, § 328.32(g) by committing dishonorable and unprofessional conduct.

10. The Dental Board's application of the Oklahoma Dental Act to the subject advertisement placed by Dr. Jacobs is not precluded by the First Amendment to United States Constitution. Restrictions on the use of the word "specialist" by dentists who are not licensed as specialists have been upheld over First Amendment challenges. See Parmley v. Missouri Dental Board, 719 S.W.2d 745 (Mo. Banc. 1986). The Board finds cases such as Parmley applicable here. In addition, the Board's application of the state Dental Act to Jacobs' advertisement in no way limits Dr. Jacobs' right to properly and accurately state her credentials in advertising.

11. The Board finds it legally insignificant that the individual who filed the initial complaint against Dr. Jacobs, Dr. K.D. Parks, did not testify in person at the November 9, 1991 hearing. To be sure, Rule

V of the Board's Public Rules on Hearings does state, "If Respondent denies the allegations, the Board shall proceed to hear sworn testimony from the complainant and any witnesses in support of the complaint, and all testimony or evidence offered on behalf of the Respondent." However, the Board finds that this provision does not require the initial complainant to testify in person in every case brought before the Board. Under the Board's Rules for Hearings, the Board retains the discretion to admit only competent, relevant, and probative evidence. Moreover, the Board's attorney retains discretion to present the evidence in support of the allegations of the formal complaint in the manner that he or she deems appropriate. In this instance, the allegations against Dr. Jacobs are based on the text of the 1990-91 Southwestern Bell Yellow Pages advertisement.

The advertisement speaks for itself, and Dr. Parks live testimony is not essential to support the allegations of the complaint. In addition, the Board notes that Dr. Parks' deposition was introduced into evidence at the hearing. Dr. Parks' deposition was taken under oath, and therefore his deposition testimony constitutes "sworn testimony from the complainant" under the terms of Public Rule V. Therefore, the fact that Dr. Parks did not testify in person does not defeat the allegations of the Board complaint against Dr. Jacobs.

12. The Board finds the testimony presented by Dr. Jacobs from Drs. Chancellor and Snyder and Ms. Blades and Ms. Jenswold irrelevant to the issues in the instant case. None of this testimony rebutted the fact that, in the advertisement placed by Dr. Jacobs, she represented herself as a dentist

anesthesiologist and an advanced university and hospital trained specialist in anesthesiology when such a specialty is not recognized by the American Dental Association or the State Dental Board.

In addition, the Board finds the testimony of Ms. Clark Johns unpersuasive. As noted above, Ms. Johns testified that the advertisement in question was not misleading because it was "verifiable." By "verifiable", Ms. Johns apparently meant that an individual reading the advertisement could make a subsequent investigation and determine what exactly Dr. Jacobs meant by the particular statements that she made there. However, under the provisions of the Oklahoma State Dental Act, what must be considered by the Board is the language used in the advertisement itself. That language unequivocally describes Dr. Jacobs as a dentist

anesthesiologist and as a specialist. The fact that an individual could read the advertisement and find out by a subsequent investigation that Dr. Jacobs did not actually have a specialty license does not render the advertisement any less misleading and does not rebut the evidence that establishes that Dr. Jacobs violated the State Dental Act by so placing the advertisement.

Order

In light of the violations set forth above, the Board issues the following order of reprimand and probation against the Respondent Dr. Jacobs:

1. Dr. Jacobs is hereby formally reprimand. A written reprimand will be placed in Dr. Jacobs' Board file.

2. In addition, the dental license of the Respondent Dr. Jacobs is hereby placed on

probation for a period of two (2) years beginning on November 9, 1991 and concluding on November 9, 1993. During the period of probation, Respondent Dr. Jacobs shall comply with all provisions of the State Dental Act and the Dental Board's rules.

All participating members vote "aye".

IT IS SO ORDERED.

_____

WILLIAM GOODMAN, D.D.S.
PRESIDENT, OKLAHOMA BOARD OF
GOVERNORS OF REGISTERED DENTISTS

State of Oklahoma)
County of Oklahoma) ss

Subscribed and sworn to before me this 23rd day of December, 1991.

S/Glenda Goodman
Notary Public
My commission expires:
3-16-93

EXHIBIT F

Okla. Stat. tit. 59 § 328. 22. Specialist License

No person qualified to practice dentistry, as defined herein, shall announce and/or hold himself out to the public as limiting his practice to, or as being especially qualified in, any branch of dentistry, without first having obtained a license therefor from the Board of Governors as hereinafter provided. The Board of Governors will, at its discretion, issue licenses in only those specialties as approved by the Council on Dental Education of the American Dental Association. The issuing of a specialist license by the Board of Governors is a special privilege granted to that member, which allows him to announce to the public that he is especially qualified in a particular branch of dentistry. Any member granted this special privilege must

limit his practice to the specialty in which he is licensed, or said specialist's license may be revoked or suspended, as herein provided. The Board of Governors, upon satisfactory proof that a member is a graduate in one of the recognized specialties of dentistry from a school or educational program approved by the Council on Dental Education of the American Dental Association, and, in addition thereto, such formal education and/or professional knowledge and experience that the Board of Governors, by rule, considers necessary to maintain the graduate standards according to present day specialists' training programs, may issue a license to any member, authorizing such member to hold himself out and announce to the public that he is especially qualified and limits his practice to, and gives special attention in, any one of the recognized

branches of the dental profession. Examinations shall be theoretical and practical. The theoretical examinations shall be in writing and include all the subjects represented in the different branches of approved graduate schools. Written examinations may be supplemented with an oral examination. Demonstration of the applicant's skill is also required. A special license shall be required for the practice of each recognized branch of dentistry in order for the member to hold himself out to the public as limiting his practice to, and being specially qualified in, any branch of dentistry. The fee for such examination and special license shall be fixed annually by the Board of Governors, but shall not exceed Three Hundred Dollars ($300.00). Any applicant failing to pass such examination shall be entitled to one

additional examination for an additional fee as required by the Board of Governors, but not to exceed Three Hundred Dollars ($300.00).

Okla. Stat. tit. 59 § 328.32

Revocation or Suspension of License to Practice Dentistry.

The Board of Governors shall have power, after a hearing for any causes now existing in the laws of the State of Oklahoma, or for a violation of any acts prohibited herein, to revoke a license of a dentist to practice dentistry, or a specialist license of a dentist, or to suspend the use of the same, or to discipline by probation or reprimand, public or private; and the Board of Governors shall have power to pass upon all petitions for reinstatement. The Board of Governors shall keep a record of the evidence and

proceedings in all matters involving the revocation of a license or suspension, probation or reprimand, and shall make findings of fact and a decision thereon. Upon the making of any decision to revoke a license or to suspend a member hereof from practice, or place him or his license under probation, or reprimand a member hereof, the Board of Governors shall immediately forward a certified copy of said decision to the member involved by registered mail, to his last-known business address. Such decision shall be final, unless such member hereof whose license is revoked, suspended, placed under probation, or who is reprimanded, shall have the right of an appeal as provided in this act. In the event an appeal is not taken within the provisions of this act, the Board of Governors shall make and enter an order striking the name of such person from

the roll of membership hereof, or suspending him for the period mentioned in said decision or otherwise carrying out provisions of said decision and shall so notify said member thereof. The Board of Governors shall have power to revoke the license of a member hereof, suspend the member from the practice, reprimand or order a period of probation of said member upon the following grounds:

(a) Upon presentation to the Board of Governors of a certified copy of a court record showing that the member hereof has been convicted of a crime involving turpitude;

(b) Has presented to the Board of Governors a false diploma, license or certificate, or one obtained by fraud or illegal means;

(c) By reason of persistent inebriety, or addiction to drugs, the member is rendered

incompetent to continue the practice of dentistry;

(d) Has been guilty of false, fraudulent or misleading advertising, as herein prohibited;

(e) Has permitted, directly or indirectly, by knowledge or acquiescence, an unregistered or unlicensed person to practice dentistry and/or dental hygiene;

(f) Has permitted a dental hygienist to perform any operation other than as authorized by the Board of Governors;

(g) Has been guilty of dishonorable or unprofessional conduct;

(h) Has failed to pay registration fee as herein provided;

(i) Holds himself out as especially qualified in or limiting his practice to a branch of dentistry without a special license therefor;

(j) Is a menace to the public health by reason of a communicable disease;

(k) Is a menace to the public health by reasons of unsanitary offices, practices, or techniques;

(l) Has been proven mentally unsound or has been admitted to a mental institution, either public or private, and until he is proven mentally competent;

(m) Is grossly immoral;

(n) Is incompetent in the practice of dentistry;

(o) Is guilty of willful negligence in the practice of dentistry;

(p) Is guilty of division of fees, or agreeing to split or divide the fee received for dental service with any person for bringing or referring a patient without the knowledge of the patient or his legal representative;

(q) Has been convicted of violating or has willfully violated the federal or state narcotic or barbiturate laws or has been committed for treatment for drug addiction to an institution, either public or private, and until he has proven himself cured;

(r) Is guilty of using or attempting to use the services of a dental laboratory or dental laboratory technician without issuing a written authorization;

(s) Is guilty of aiding or abecting or encouraging a dental hygienist employed by him to make use of an oral prophylaxis list, or the calling by telephone or by use of letters transmitted through the mails to solicit patronage from patients formerly served in the office of any dentist formerly employing such hygienist;

(t) Is guilty of having more than two dental hygienists per dentist;

(u) Is guilty of patronizing or using the services of any dental laboratory or dental laboratory technician in this state unless such dental laboratory or dental laboratory technician shall have first complied with the provisions of the act regulating dental laboratories and dental laboratory technicians;

(v) Has placed a dental appliance in the mouth without first having a written authorization from the dentist who caused same to be constructed;

(w) Has authorized, permitted or allowed his or her dental hygienist, dental nurse, dental assistant, or dental laboratory technician to violate any provision of this act or any rules and regulations of the Board of Governors, or has violated any of the provisions of this act.